

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DENNIS HOWARD FOY,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 03-1237
	)	Judge Ambrose
BEN VARNER, et al.,	)	Chief Magistrate Judge Caiazza
	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

Dennis Howard Foy's Petition for Writ of Habeas Corpus was received by the Clerk of Court on August 18, 2003, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on April 6, 2006, recommended that the Petition for Writ of Habeas Corpus filed by Dennis Foy be dismissed, without prejudice and that a certificate of appealability be denied.


The parties were allowed ten days from the date of service to file objections. Service was made on the Petitioner by First Class United States Mail delivered to the State Correctional Institution at Smithfield, Huntingdon, Pennsylvania, where he is incarcerated and on the Defendant. No objections have been filed.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 3d day of May, 2006,

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus filed by Dennis Foy is dismissed, without prejudice and that a certificate of appealability be denied.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 41), dated April 6, 2006, is adopted as the opinion of the court.

  
Donetta W. Ambrose  
Chief U.S. District Judge

Dated: 5-3-06

cc:  
Dennis Howard Foy, AJ-2758  
SCI Smithfield  
1120 Pike Street  
P.O. Box 999  
Huntingdon, PA 16652

Rebecca D. Spangler-Asst DA